

**Before the State of South Carolina  
Department of Insurance**

In the matter of:  
Mr. Steven B. Wilner  
40 Redding Way  
San Rafael, CA 94901-5238

File Number 2004-121680  
**Consent Order**  
**As Precondition to Remain Licensed**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Steven B. Wilner, a licensed South Carolina non-resident insurance producer.

On March 19, 2004, our Department received a written notification from above named respondent, in that on February 26, 2004 he "was offered and accepted a misdemeanor diversion program, regarding his arrest on December 31, 2003, on Shoplifting, Case of Marin County Municipal Court, in California vs. Steven Brom Wilner; Docket Number CR133255A."

Upon review of this matter, I hereby find as fact, that Mr. Wilner, while licensed to do business as a non-resident insurance producer within the State of South Carolina, was arrested in California on a misdemeanor charge of Theft, and without prosecution or the entry of a Plea, entered a statutory pretrial diversion program wherein it was stipulated that once he successfully completes the program, the charges would be deemed never to have occurred, and that neither the arrest, nor the diversion program would need to be reported for the purposes of licensing or employment applications. However, should Mr. Wilner fail to successfully complete the diversion program, prosecution for the original charge may proceed. Thus, these actions could ultimately lead to the revocation of his licensing privileges to conduct the business of Insurance as a non-resident producer within the State of South Carolina, following a public hearing at the Administrative Law Judge Court.

Prior to the initiation of any administrative proceedings by the Department against him, Mr. Wilner and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that Mr. Wilner would waive his right to a public hearing, and successfully complete his diversionary program with the State of California, scheduled to end on February of 2005, in lieu of our Department seeking to revoke his license. Should Mr. Wilner not complete successfully his diversionary program, prosecution for the original charge would proceed.

Section 38-45-140 of the South Carolina Code grants the Director of Insurance the power to revoke an insurance broker's license for violating any of South Carolina's Insurance Laws. Similarly, § 38-43-130 also provides the Director of Insurance with the

authority to revoke a producer's license "when it appears that a producer has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State." Similarly, Subsection (A) provides the Director or his Designee may place on Probation, Revoke, or Suspend a producer's license after ten days' notice or refuse to issue a license when it appears that a producer has been convicted of a crime of moral turpitude. (B) for the purposes of this section, "convicted" includes a plea of Guilt or a plea of Nolo Contendere, and the record of conviction, or a copy of it, certified by the clerk of court or by the judge in whose court the conviction occurred, is conclusive evidence of the conviction. In this case, proof of incompleteness of the diversionary program in question would re-establish the allegation against Mr. Wilner.

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law, and Steven Brom Wilner admits, that he was arrested in California on a charge of theft, and without prosecution or the entry of a plea, entered a statutory pretrial diversion program. Therefore, failure to complete this program, scheduled to end by February of 2005, would tacitly imply that Mr. Wilner has violated S.C. Codes Ann. § 38-43-130(A) & (C)(2) (Supp. 2003). As a result, I could then revoke his non-resident insurance producer's license without further proceedings. The parties have also reached this agreement in consideration of Mr. Wilner's assurances that in the future he will comply with our State's Insurance Laws. By his signature upon this consent order, Mr. Wilner acknowledges that he understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2003).

The parties have reached this agreement through negotiation and compromise and in consideration of the nature of the charges at issue. It is also made in consideration of Mr. Wilner's assurances that he will successfully complete his State of California's Diversionary Program and that he will fully comply with South Carolina's Insurance Laws. If Steven Wilner violates any of the State's insurance laws or regulations or fails to successfully complete the Diversion Program, all of his licensing privileges will be permanently revoked without further administrative proceedings. The parties expressly agree and understand that this resolution shall constitute full accord and satisfaction of this matter.

Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance

or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (Supp. 2003).

It is, therefore, ordered that Steven Brom Wilner shall successfully complete the State of California's Diversion Program by the month of February of 2005, in order to avoid revocation of his South Carolina's non-resident insurance producer's license.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Mr. Wilner's licensing file.

This order becomes effective as of the date of my signature below.



Ernst N. Csiszar  
Director

August 18, 2004  
Columbia, South Carolina

I CONSENT:



Steven Brom Wilner  
40 Redding Way  
San Rafael, California 94901-5238

Dated this 17 day of August, 2004.